

AFFIDAVIT

I, RICHARD G. ROSE, being duly sworn, depose and say:

1. I am over 18 years of age, am fully competent to make this Affidavit and the facts stated herein are true and correct and within my personal knowledge.

2. I am President of Don Ro, Inc., d/b/a Accurate Concrete Sawing ("Accurate").

3. On or about September 4, 1992, Accurate, by and through its attorneys, Blooston, Mordkofsky, Jackson & Dickson ("Blooston"), filed a Petition for Reconsideration and Reinstatement of License (the "Petition") with the Federal Communications Commission ("Commission").

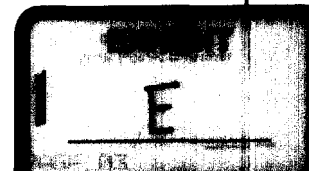
4. The Petition was filed as a result of the Commission's January 5, 1990 cancellation of Accurate's licenses to operate four (4) stations; namely, KNQ572, KNQ573, WIB686 and KB4782 at 507.6875 and 510.6875 MHz (collectively, "Accurate's Licenses"). On that same day, the Commission issued a license on Accurate's frequencies and in Accurate's area of operation to James A. Kay, Jr. ("Kay") under Call Sign WEC934 and, later, under Call Sign WIK331.

5. In the Petition, Accurate requested that the Commission reconsider its cancellation of Accurate's Licenses, to reinstate these licenses, and to modify Kay's licenses so that Accurate could be relicensed.

6. As part of these proceedings, Kay submitted a copy of FCC Form 405-A, containing what appears to be my signature on behalf of Accurate, and requesting canceling of Accurate's Licenses.

7. After several pleadings filed by Blooston and Kay's attorneys, the Commission, on March 19, 1993, granted the Petition, finding that the "cancellation of [Accurate's Licenses] was the result of a misunderstanding between [Kay] and Accurate." A copy of the Commission's March 19, 1993

Berger, Kahn, Shafon, Moss,
Figler, Simon & Gladstone
A Professional Corporation



1 decision is attached hereto as Exhibit "A."

2 8. The cancellation of Accurate's Licenses occurred as a result of a
3 misunderstanding between Accurate and Kay. I have no knowledge that Kay
4 or any business owned or operated by Kay engaged in wrongful or illegal
5 activities with regard to FCC Form 405-A and/or the cancellation of
6 Accurate's Licenses.

7 9. I am informed that Blooston did not bill Accurate for counsel's
8 time and disbursements in aggressively pursuing all matters related to the
9 Petition before the Commission because, based upon information and belief,
10 Blooston was concerned about certain of its own errors and omissions
11 regarding Accurate's licenses. I have no knowledge to either confirm or
12 dispute this information.

13 10. Pursuant to an agreement between Accurate and Kay d/b/a/
14 Lucky's Two-Way Radios, Kay provided private carrier service to Accurate
15 from January, 1990, to late 1995. Accurate's business relationship with Kay
16 ended in 1995 due to cancellation of service.

17 11. I have no knowledge, direct or indirect, that Kay or any business
18 owned or operated by Kay has conducted business in an unlawful or illegal
19 manner or that Kay has violated the Communications Act of 1934, as
20 amended, or any other Commission rule or regulation.

21 ///

22 ///

23 ///

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27 ///

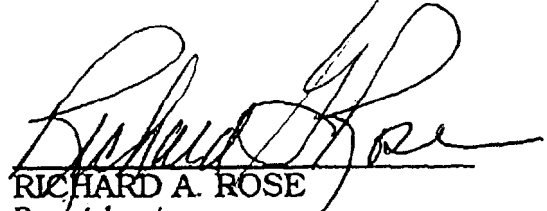
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1 12. I have not spoken with or met in person with anyone from the
2 Commission concerning Kay except for Sharon Bowers detailed in my
3 (Richard Rose's) declaration dated May 13, 1996, nor have I signed or made
4 any written statement concerning Kay to the Commission.

5 I solemnly affirm, under the penalties of perjury, that the contents of
6 the foregoing Affidavit are true and correct to the best of my knowledge,
7 information and belief.

8
9 DATED: November 5, 1996


RICHARD A. ROSE
President
DON RO, INC., d/b/a/
ACCURATE CONCRETE SAWING

Berger, Kahn, Shafon, Moss,
Figler, Simon & Gladstone
A Professional Corporation



A.C. PETERSON CO., INC.

12211 SO. WOODRUFF AVE. • DOWNEY, CA 90241 • 213/803-4343 • 213/773-5592 • 714/621-0150

Since 1949

MIKE MOFFETT

JUNE 23, 1992

FEDERAL COMMUNICATIONS COMMISSION

18000 STUDEBAKER RD. ROOM 660

CERRITOS, CA. 90701

DEAR MIKE,

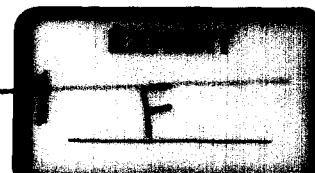
I AM SENDING YOU THIS LETTER OF COMPLAINT AS PER OUR CON-
VERSATION JUNE 22, 1992.

WE ARE AN END USER OF TWO WAY RADIOS AND HAVE BEEN A
SATISFIED CUSTOMER OF JIM DOERING'S FOR MANY YEARS. A FEW MONTHS
BACK OUR RADIOS BECAME USELESS TO US IN COMMUNICATING WITH OUR
TWENTY ONE EMPLOYEES ON DIFFERENT JOBSITES THROUGHOUT SOUTHERN
CALIFORNIA. THIS WAS DUE TO A JAMMING TECHNIC UTILIZED BY JAMES
KAY. SHORTLY AFTER THIS BEGAN, A JAMES KAY SALESMAN ATTEMPTED
TO PERSUADE US TO GO ON THEIR FREQUENCY TO RESOLVE OUR RADIO
PROBLEMS. TO ME THIS IS A CLEAR CUT CASE OF EXTORTION.

BECAUSE OUR RADIOS HAVE BASICALLY BEEN RENDERED INEFFECTIVE,
WE HAVE NOT PAID JIM DOERING OR COMMUNICATION SERVICES FOR
SERVICE THE LAST TWO MONTHS AND WILL NOT PAY UNTIL THIS PROBLEM
IS RESOLVED. I DON'T UNDERSTAND WHY IT HAS TAKEN THE F.C.C. SO
LONG TO RESPOND TO A CLEAR CUT OFFENSE SUCH AS THIS. IS THIS
JUST ANOTHER EXAMPLE OF THE INEFFICACY OF OUR BUREAUCRATIC
GOVERNMENT?

SINCERELY,

TERRY PETERSON



In The Matter Of:

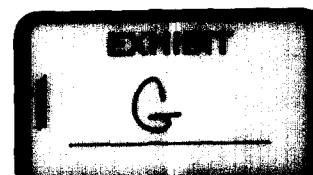
*James A. Kay, Jr. v.
Harold Pick*

*Terry Peterson
October 18, 1996*

*Coleman, Haas, Martin & Schwab, Inc.
6222 Wilshire Boulevard
Suite 204
Los Angeles, CA 90048
(213) 480-1234 FAX: (213) 480-0381*

Original File 962855, 38 Pages

Word Index included with this Min-U-Script®



Terry Peterson
October 18, 1996

James A. Kay, Jr. v.
Harold Pick

(141) A: Right.

(142) Q: The next sentence which states "A few

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(11) months back our radios became useless to us in (12) communications with our 21 employees on different job (13) sites throughout Southern California."

(14) Could you tell me about that particular (15) situation, how they became useless.

(16) A: Because of a signal or some sort of a (17) tone that was interfering with our communications, (18) every time we would key up the repeater, we would (19) bring on another — I'm not sure whether it was (20) another repeater or what it was, but it was another (21) tone that would completely render the — you could not (22) hear conversations. There was just — it brought up (23) garbage on the air, the way I remember it.

(24) Q: It made all the radios very difficult to (25) use; is that correct?

(26) A: Yeah. We couldn't carry on a (27) conversation from our office to our personnel in the (28) field.

(29) Q: Were your other personnel able to use (30) their radios at all from the field?

(31) A: No. The same thing happened when they (32) keyed up.

(33) Q: Could you describe this tone to me, what (34) it sounded like?

(35) A: I don't remember.

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(1) Q: Would it have been a humming or a (2) whistling? Would either one of those two describe it?

(3) A: I really don't remember exactly what it (4) was, what the tone or sound was. It was just (5) something that made it almost impossible for us to (6) talk to our people.

(7) Q: It says "This was due to a jamming (8) technique utilized by James Kay."

(9) How did you discover that?

(10) A: Based on what Jim Doering told me.

(11) Q: That wasn't anything that you came to —

(12) A: No.

(13) Q: Please let me finish. (14) That wasn't anything that you came to (15) on your own as far as tracking down the source of it; (16) is that correct?

(17) A: Correct.

(18) Q: Did anybody help you prepare this letter?

(19) A: No.

(20) Q: Did anybody suggest that you prepare this (21) letter?

(22) A: Well, like I said earlier, I don't recall (23) the conversation I had with Mike Moffett, whether or (24) not this letter came out of him suggesting that I (25) write this to him so that it would be a matter of

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(1) record.

(2) Q: Did Mr. Doering tell you who told him, if (3) anyone, that it was James Kay that was doing the (4) jamming?

(5) A: I don't recall that.

(6) Q: Did he tell you in any way how he came to (7) the conclusion that it was James Kay jamming?

(8) A: No.

(9) Q: What is your understanding of the word (10) "jamming" as you used it here?

(11) A: Well, as I used it here was that (12) basically it prevented us from using the frequency.

(13) Q: Did you believe that this jamming, as (14) it's used here, this jamming technique utilized by (15) James Kay, was something that he was doing (16) intentionally to disrupt your service?

(17) A: I don't know that I had — that I came to (18) that conclusion.

(19) Q: Normally when I see the word "jamming," (20) it's with regard to intentional interference. For (21) instance, if you hear somebody on the channel talking (22) who is legally licensed to also talk at the same time (23) even though you want to talk when they're talking, (24) that's interference. You wouldn't call it jamming; (25) correct?

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(1) A: If there were conversations on both (2) sides, that would be correct. There wasn't (3) conversation on the other side, whatever was causing (4) us not to be able to talk.

(5) Q: I'm trying to see if we can get clear on (6) the difference between something that I call (7) co-channel traffic and something that might be known (8) as interference or something that might be known (9) as jamming, which I would call deliberate interference.

(10) In wartime, jamming the radios of the (11) enemy was a very useful technique, and that's an (12) intentional interference with someone else's signal. (13) It's a serious problem if someone is out there (14) intentionally interfering, and it's a very serious (15) charge.

(16) What I want to know is: Is that the way (17) that you mean it when you wrote this letter, that Mr. (18) Kay was intentionally and deliberately interfering (19) with your radio communications operations?

(20) A: When I wrote that, I don't know that I (21) was referring that it was an

intentional thing. I (22) just was trying to state that it was happening, (23) something was causing us not to be able to (24) communicate.

(25) Q: Do you have any way of knowing that it

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(1) was, in fact, jamming? And by that I mean intentional (2) interference with that particular frequency.

(3) A: Do I have any way of knowing that?

(4) Q: Yes, sir.

(5) A: No.

(6) Q: Do you have any way of knowing that it (7) was not something that occurred out of lawful (8) operation of a transmitter, but was still a problem (9) for you?

(10) A: State that again.

(11) Q: Sure. For instance, sometimes due to (12) equipment incompatibilities in this field of radio, (13) with the changing technology, two repeaters could have (14) problems with one another. And what I'm asking you is (15) whether or not you have any reason to believe that the (16) activity of this jamming was for any reason unlawful.

(17) A: No.

(18) Q: When you wrote this letter, then, the (19) information that you included in this letter with (20) regard to jamming was purely based, then, on the (21) information that you received from Mr. Doering; is (22) that correct?

(23) A: That would probably be correct.

(24) Q: Can you think of where else you might (25) have gotten information? I notice you qualified it

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(1) with "probably." If you have information from another (2) source other than Mr. Doering can you tell me what (3) that is?

(4) A: I wouldn't have any other source.

(5) Q: If I were to tell you that, in fact, (6) there was someone else attempting to interfere with (7) Mr. Kay's operation, would you have any reason to (8) believe that that was not true?

(9) A: No.

(10) Q: You do mention in this letter that (11) shortly after the radio interference began a James Kay (12) salesman attempted to persuade you to go on their (13) frequency to resolve the radio problems.

(14) Do you recall the name of that particular (15) salesman?

(16) A: No, I don't.

(17) Q: Can you give me a description of this (18) individual at all?

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Coleman, Haas, Martin & Schwab, Inc.

James A. Kay, Jr. v.
Harold Pick

Terry Peterson
October 18, 1996

(19) A: No.

(20) Q: Was it someone that spoke with you?

(21) A: Yes.

(22) Q: Can you remember how that contact came (23) about?

(24) A: As I recall, I was in my office. He was (25) in our dispatch office. I came out, and there was, as

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(1) I recall, a very short, brief conversation.

(2) Q: Do you remember what kind of vehicle he (3) was driving?

(4) A: No.

(5) Q: Did you ever make any complaint to (6) Mr. Kay about this particular situation?

(7) A: No.

(8) Q: Could you tell me why not?

(9) A: I just left it in the hands of our (10) repeater people. That's the guy that supplies us with (11) the service, and I relied on him to correct or remedy (12) any problems that we have. That's his job.

(13) Q: Right. I understand that. (14) You did go to the trouble to contact the (15) FCC to discuss the matter with Mr. Moffett and (16) followed it up with a letter.

(17) I'm just wondering if there was a reason (18) that you didn't go to what you believed to be the (19) source of the problem, Mr. Kay, and say, "Are you (20) interfering with my stuff? If you are, please stop."

(21) A: No reason.

(22) Q: Did Mr. Doering tell you not to call (23) Mr. Kay?

(24) A: No.

(25) Q: Did Mr. Doering indicate to you that he

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(1) would call Mr. Kay?

(2) A: No.

(3) Q: Was this situation resolved? You don't (4) still have the problem?

(5) A: We definitely don't have the problem.

(6) Q: When did it go away?

(7) A: There's still a tone on our frequency (8) that was never there before. All this happened that (9) keeps coming on, but it doesn't render our radios (10) useless like before.

(11) Q: Did you ever hear any of Mr. Kay's radios (12) on your frequency?

(13) A: I would have no way of knowing of the (14) people that are on our frequency whether they are (15) Mr. Kay's radios or not.

(16) Q: Have you ever heard Mr. Kay personally (17) over that particular radio frequency?

(18) A: No.

(19) Q: Have you ever personally spoken with (20) Mr. Kay at all?

(21) A: Never.

(22) Q: Are you aware that Mr. Doering and Mr. (23) Kay are competitors?

(24) A: I really don't know what they are. I (25) don't know really what Mr. Kay does.

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(1) Q: Are you aware that in the two-way radio (2) business that radio entrepreneurs will commonly ask (3) their customers to file complaints with the FCC (4) against their competitors?

(5) A: No.

(6) Q: Would you have any way of knowing whether (7) or not Mr. Doering was soliciting you to file this (8) complaint to attack his competitor, Mr. Kay?

(9) A: No. The letter was simply written (10) because we were having a problem we were trying to (11) overcome.

(12) Q: In here it indicates that you didn't pay (13) Mr. Doering for the service for the last two months (14) and that you were not intending to pay him until the (15) problem was resolved.

(16) Do you recall that?

(17) A: Uh-huh.

(18) Q: Is that a "yes"?

(19) A: Yes.

(20) Q: Thank you.

(21) A: Sorry.

(22) Q: That's quite all right. (23) Can you recall how much longer this went (24) on before you were able to use the radios again?

(25) A: No, because unless I had had this letter

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(1) in front of me. I didn't even remember that we hadn't (2) paid Jim for two months until it refreshed my memory, (3) but no, I really don't know, no.

(4) Q: It seems to me it would be a tremendous (5) inconvenience in your business, moving equipment (6) around and such, not to have your two-way radios.

(7) How did you work around the situation? (8) With pay phones?

(9) A: Yes.

(10) Q: At some point in time, though, the (11) problem went away; is that correct?

(12) A: Yes.

(13) Q: Do you recall anyone from Mr. Kay's (14) office contacting you to discuss the problem with you (15) at all in terms of getting it resolved?

(16) A: No.

(17) Q: Did you ever find out that it was, in (18) fact, Mr. Kay's equipment at all that was causing the (19) problem?

(20) A: No.

(21) Q: Since it doesn't seem that you have any (22) particular knowledge of the technical end of two-way (23) radios or personal knowledge of the problem, how did (24) you know that it was Mr. Kay that was at fault when (25) you wrote this letter?

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(1) A: Based on Jim Doering input.

(2) Q: And nothing else; is that correct?

(3) A: Correct.

(4) Q: Why don't we go off the record for a (5) moment. In other words, the court reporter will stop (6) taking things down. I think we may be able to wrap (7) this deposition up here quickly.

(8) (Recess taken.)

(9) BY MR. CRAWFORD:

(10) Q: Have you ever been to the FCC offices in (11) Cerritos, California?

(12) A: No.

(13) Q: Have you ever met anyone who represented (14) themselves as being from the Federal Communications (15) Commission?

(16) A: Not that I can remember.

(17) Q: Have you ever signed a witness statement (18) or a declaration or anything in writing other than (19) this letter that we've already discussed today for the (20) FCC?

(21) A: Not that I recall.

(22) Q: Do any of these —

(23) A: But I didn't recall the letter either.

(24) Q: You would probably remember if sometime (25) in the last few years you had been required to give a

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(1) statement, then transmitted to you later again in (2) written form and then you would have had to go out and (3) have it notarized?

(4) A: No, I didn't do that.

(5) Q: Do any of these names mean anything to (6) you? Jim Zolick?

(7) A: No.

(8) Q: Never heard it; right?

(9) A: No.

(10) Q: How about Jim Zolick?

(11) A: No.

(12) Q: Have you ever heard of Mike Moffett? (13) Obviously you have; right?

(14) A: Right.

(15) Q: W. Riley Hollingsworth or a William Riley (16) Hollingsworth?

COPY

~~WILLIAM DEARBEG & ASSOCIATES 1800 Century Park Century City - Los Angeles~~

Mr. Terry Fishel,
Chief, Land Mobile Branch
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA. 17326

9 December 1991

Dear Mr. Fishel:

This is an informal PETITION TO DISMISS OR DENY, or SET-ASIDE any license resulting from application number 557897-101 on 10/02/91 for the frequency of 854.4875MHz. Objections are based upon the following:

WNX5753
gr. 11-15-91

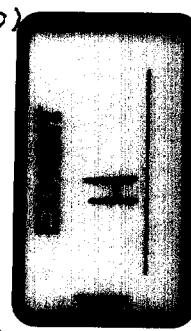
(1) Mr. James A. Kay has not shown true loading on any of his granted licenses to prove a need for this frequency nor does he have a right to gather licenses to prevent others from obtaining them. According to FCC rules an applicant must have other SMR systems loaded before additional frequencies may be granted. As you go through your records you will find that Mr. Kay does not have his SMR systems loaded to their capacities; therefore an issuance of an additional SMR License would be in violation of FCC Part 90 Rules.

(2) Mr. Kay could be in violation of the Communications Act of 1934, Section Number 313A, if he is using additional channels.

(3) Mr. Kay can in no way justify requests for these frequencies because such would put him in violation of part 90 rules, numbers 90.623 (a) and (b). All his licenses and applications seem to be in need of thorough review.

(4) The following are examples of some let's say strange practices involving possible SMR paper loading by Mr. Kay:

The frequency of 854.3875 MHz/WNSK552 granted 4/1/91 to James A. Kay has bogus loading - the listed user, Coast Electric Co. Inc.-WNVY322 is NOT using nine mobiles; G.T. Equipment, Inc./WNVY323 is not using eight mobiles; Universal Protection Services Inc., DBA Home Security Sentinel Patrol/WNW8482 with twenty-two mobiles listed is not using this frequency. This is an especially good example of bogus loading by Home Security; they are not using any conventional systems; all their radios are trunked. When you research Home Security you will find that they have more than five frequencies which clearly



they do not even have these frequencies in the radios they use.

Mr. Terry Fisher, Chief, Land Mobile Branch/FCC - 12/09/91 - p.2

Our research shows that Coastal Concrete Care WNWA 930 with sixteen mobiles listed is NOT constructed.

The frequency of 852.1875 is a further example of bogus loading because the system is not constructed and the four sites are not used.

Medi Express Medical Transportation is another example of bogus loading. The company-WNWB269 with twenty-two mobiles listed is not using the system because they use Mr. Kays trunked system on Mt. Lukens; they are also bogus-loaded on more than five systems which violates 90.623 (b).

Master Gate Corp.-WNWN332 with five mobiles listed is NOT constructed.

The frequency of 851.7125-WNWA837/Eveready Tire Co.Inc. is NOT constructed.

The system of WQZ838, one of Mr. Kay's with nineteen mobiles licensed, has not been constructed.

The system of James Kay, WNVL794/853.5625 with Daves Trans Services, Inc. [WNVL772] with twenty-two mobiles is not constructed.

The system WNVJ775/851.7625, Kane Communications, has not been constructed.

The system WNVJ774/852.8625, Appliance Masters, has not been constructed.

The SMR WNSC920/853.6875, American Home Security Inc., WNSC921 is not constructed.

The SMR on 854.1875 and 854.3875-WNSK552 is bogus and so is Consolidated Financial Holdings (another name for James A. Kay) with 37 mobiles which in no way could have that many mobiles in operation because it is doubtful that Mr. Kay has 37 people available to use them.

The other listings - WNUH921 with 34 mobiles, WNVY322 with 9 and WNVY323 with 8 - are NOT constructed.

I should very much appreciate it if you would take the steps necessary to right the wrongs done by Mr. Kay.

12/09/91

Sincerely -

Bruce S. Gillis, M.D., M.P.H., Inc.
INTERNAL MEDICINE - OCCUPATIONAL MEDICINE - MEDICAL TOXICOLOGY

10215 SANTA MONICA BOULEVARD, LOS ANGELES, CALIFORNIA 90067-6403
(213) 277-1414 FAX (213) 551-2777

September 28, 1990

B. Drew McConnell, Esq.
McCONNELL, CRAMOLINE & HANDY
5900 Wilshire Blvd., Suite 310
Los Angeles, CA 90036

Terri Rupich
Claims Examiner
Scott Wetzel Services
P.O. Box 500
Orange, CA 92666

RE: PFEIFER, David v. Technicolor
WCAB Nos: 85 VNO 148865; 86 VNO 157761
Claim No: 706 C 408269
Re-Exam Date: July 17, 1990

Dear Mr. McConnell:

I had the opportunity of doing an internal medical re-examination of Mr. David Pfeifer on July 17, 1990. For reference, please recall that I originally examined Mr. Pfeifer back on June 5, 1985. I thereafter issued a report discussing my findings on August 16, 1985.

Mr. Pfeifer is currently 42 years of age. He explained what had transpired since I last saw him.

Mr. Pfeifer said that he had left the film developing industry as of August 3, 1985. He had subsequently been self-employed plus had a variety of other jobs. Mr. Pfeifer had actually been laid off with many co-workers from the Technicolor Company on August 3, 1985.

After leaving Technicolor, Mr. Pfeifer operated a catering truck from September, 1985 until April, 1986. He then performed manual labor for a series of five different landscaping and irrigation companies. In those jobs he would clean up brush, dig ditches, lay pipe, transplant landscaping, install sprinkler systems, and repair irrigation systems. He worked in those manners until September, 1988. He then returned to being a catering truck driver, and he held that job until June, 1989.

RE: PFEIFER, David

DOE: July 17, 1990

Mr. Pfeifer said he was subsequently a salesman of mobile, two-way radio systems. He has continued to work in that manner through the present.

Mr. Pfeifer said that he had no known chemical exposures at any of the aforementioned jobs after he departed from his position at Technicolor. Mr. Pfeifer has been working full-time. Currently, he puts in 5 days and 45 hours per week.

Mr. Pfeifer denied having any ongoing medical complaints. He said that he remains under treatment for his hypertension, for which he takes the medication of Cardizem, Catapres, Prinivil, and Allopurinol. He also takes Mevacor to treat a problem of high cholesterol. He additionally uses Zantac because of a problem of high stomach acid. Mr. Pfeifer said he was presently under the care of a Dr. Goldis in Valencia.

Mr. Pfeifer told me that he has had a history of blood in his urine since he was 18 years of age. It was detected shortly after he was married. This hematuria disorder has recurred intermittently throughout his life. Twice he was told he had passed kidney stones in association with his history of kidney disease. Mr. Pfeifer said that no other form of a kidney disorder was ever uncovered through that procedure.

Mr. Pfeifer said that he had a cystoscopy analysis of his kidneys three years ago by an unrecallable physician. He did not know what results were uncovered.

Mr. Pfeifer denied having any history of mental problems. In particular, he said he doesn't have any mental lapses, cognitive deficits, or forgetfulness. Mr. Pfeifer continues to smoke cigarettes. He currently smokes one package of cigarettes per day.

Mr. Pfeifer denied having any ongoing respiratory complaints like breathlessness at rest, a chronic cough, or chronic phlegm production.

PHYSICAL EXAMINATION:

GENERAL:

AGE: 42

BODY STATURE: Obese Caucasian Male

The patient was alert, oriented, cooperative, and in no acute distress.

VITAL SIGNS:

PULSE: 80 and regular

RESPIRATIONS: 12

BLOOD PRESSURE: 126/84

HEIGHT: 6' 1"

WEIGHT: 245½ lbs.

SKIN:

There were tattoos on both arms.

HEENT:

The shape of the head was normocephalic. There were no signs of any abnormal symmetry.

RE: PFEIFER, David

DOE: July 17, 1990

HEENT (cont'd):

The sclerae and conjunctivae were clear. The pupils were of equal size and shape. They reacted to light and accommodation. The extraocular muscle movements were intact. There was no evidence of any lid lag or lid drooping. The fundoscopic examination showed slight A-V nicking.

The lips were not seen to be fissured. The tongue, teeth, and gums showed no ongoing lesions. The throat was clear and there were no abnormal lesions. The neck was supple. There were no abnormal masses. The thyroid was of normal size, shape, and consistency.

LYMPHATIC SYSTEM:

There was no palpable lymph gland enlargement.

CHEST & LUNGS:

There was an abnormally increased and emphysematous AP chest diameter. The breath sounds were clear but distant.

CARDIOVASCULAR:

There were muffled tones. The apical impulse was in the midclavicular zone. There were no abnormal heaves, pulsations, or thrills. Of the heart sounds, there was a normal S1 and normal S2. No abnormal murmurs or gallops were appreciated.

ABDOMEN:

The shape of the abdomen was obese. There were no abnormal masses which were palpable. There was no organomegaly. The bowel sounds were active. The abdomen was non-tender.

EXTREMITIES:

An inspection of the digits did not demonstrate any signs of clubbing or cyanosis. There was no peripheral edema.

NEUROLOGIC:

No neurologic abnormalities were observed.

LABORATORY:

A complete blood count demonstrated a hemoglobin of 16.8, a hematocrit of 50.4, an RBC count of 5.54, a WBC count of 12.8 with a normal differential, an MCV of 91, and a platelet count of 253,000.

Serum chemistries were:

Sodium 141	Potassium 4.6	Chloride 104
Glucose 84	Urea Nitrogen 14	Creatinine 1.2
Uric Acid 7.1	Total Protein 7.7	Albumin 4.3
Globulin 3.4	Ferritin 97	Calcium 9.9

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Serum chemistries (cont'd):

Phosphorus 3.9	Cholesterol 220	Triglycerides 268
LDH 170	SGOT 24	SGPT 34
Alk. P'tase 99	GGTP 44	Total Bilirubin 0.5
HDL 35	LDL 131	T3 0.99
T4 9.1		

The urinalysis was yellow in color, clear in appearance, with a specific gravity of 1.020, and a pH of 5.0. It was negative for glucose, ketones, protein and blood. The microscopic sediment showed a few white cells, crystals, and epithelial cells.

Chest x-rays in multiple views showed clear lung fields and a normal cardiothoracic ratio.

A resting electrocardiogram demonstrated a normal sinus rhythm with a rate of 84, a normal axis, normal intervals, and no ectopy.

INTERPRETATION OF LABORATORY:

Mr. Pfeifer's blood count showed a slightly elevated white cell count but was otherwise normal.

The serum chemistries showed evidence of an abnormal hyperlipidemia, with abnormally elevated cholesterol, triglyceride, and LDL levels. Those results are consistent with the fact that Mr. Pfeifer is obese, and these findings also parallel Mr. Pfeifer's known past medical history.

The remainder of the test results were as described.

By way of submission of this report, it is recommended that Mr. Pfeifer be provided with all of the laboratory test results.

REVIEW OF RECORDS:

Made available for a personal review were copies of the following.

There was a report from Dr. N. Desai which explains that he admitted Mr. Pfeifer to the Burbank Community Hospital on May 30, 1985, after Mr. Pfeifer had a 20 minute exposure to perchloroethylene at work.

There was a medical/legal report from an applicant internist, Dr. D. Garabrant of February 1, 1986. He reviewed Mr. Pfeifer's past occupational and medical histories. In particular, Mr. Pfeifer's exposure to perchloroethylene on May 30, 1985 was detailed. He said that Mr. Pfeifer's past medical history was noteworthy for "approximately 17 brain concussions as a child and was hospitalized a half a dozen times" in regard to those concussions. The patient was also said to have a "history of kidney stones." Mr. Pfeifer was said to have "used a variety of illicit drugs including cocaine, amphetamines, marijuana, and angel dust," in the

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past. He was also said to have formerly drunk "somewhat heavily, up to a fifth per week." Neurologic testing found no abnormalities, per Dr. Garabrant. Kidney x-rays showed "no evidence of disease of the kidneys." Dr. Garabrant concluded that Mr. Pfeifer's most likely source of blood in his urine had been the problem of "recurrent kidney stones."

There was a medical/legal report from another applicant internist, Dr. B. Dolan, which was dated September 11, 1987. He also discussed Mr. Pfeifer's past occupational and medical histories. Mr. Pfeifer was said to have a past history of kidney stones and periodic blood in his urine. Mr. Pfeifer was said to have accumulated an approximate 40 pack year history of cigarette smoking. A urinalysis was said to have shown red blood cells. Dr. Dolan concluded that Mr. Pfeifer had "no complaints referable to his central nervous system." In particular, Mr. Pfeifer told him how "he feels his memory is better than normal." Mr. Pfeifer was said by Dr. Dolan to have evidence of obstructive lung disease, which was solely due to his cigarette smoking. Dr. Dolan said that if Mr. Pfeifer had a problem of hematuria prior to his exposures to perchloroethylene of May 30, 1985, then the patient's current hematuria disorder was non-industrial. Otherwise, Dr. Dolan felt that Mr. Pfeifer would need a preclusion from working with kidney toxic chemicals.

There was a June 13, 1989 report from a psychologist, Dr. C. Furst, and a psychological assistant, Mr. D. Forney. They interviewed Mr. Pfeifer and put him through psychological testing. They said that Mr. Pfeifer was complaining of a deteriorating memory capacity. Mr. Pfeifer was said to have had "several episodes of trauma involving loss of consciousness." His former use of illicit drugs was noted. His history of alcohol abuse was described. These two concluded that Mr. Pfeifer was showing evidence of abnormal psychological test results which were indicative of slight organic brain dysfunction and a severe anxiety disorder. The latter were said to have stemmed from Mr. Pfeifer's exposures to chemicals at work.

There were medical/legal reports from a psychiatrist, Dr. A. Bloch. In one of March 29, 1990, Dr. Bloch discussed Mr. Pfeifer's past history. Mr. Pfeifer's mental capacities were said to have been diminishing. Mr. Pfeifer was put through more psychological studies. Dr. Bloch concluded that Mr. Pfeifer had an adjustment disorder with an anxious mood which was in partial remission, as well as psychological factors affecting his physical condition and organic brain dysfunction. The latter stemmed from industrial factors, per Dr. Bloch. Mr. Pfeifer was felt to have a slight residual permanent psychiatric disability.

DISCUSSION:

Mr. David Pfeifer was seen for an internal medical re-evaluation. Mr. Pfeifer is now 42 years of age. I originally saw Mr. Pfeifer for a medical examination back on June 5, 1985, a few days after he and several other co-workers at the Technicolor Company were exposed to perchloroethylene fumes on May 30, 1985. That exposure lasted for somewhere between 20 and 30 minutes, based upon what Mr. Pfeifer told me and what I saw in his available records.

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As I explained in my original report of August 16, 1985, I could find no residual permanent side effects from Mr. Pfeifer's exposure to perchloroethylene, in regard to his former job responsibilities as a film technician. Mr. Pfeifer currently told me that he and others had been laid off by Technicolor on August 3, 1985. Since then Mr. Pfeifer has maintained an assortment of successive job positions, which were all outside of the film processing business. These have included work in the landscaping and irrigation industries, as a catering truck driver, and most recently as a salesman of two-way mobile radio systems.

At the time of my re-examination of Mr. Pfeifer, I also had the opportunity to review a variety of additional records. What issues those reports addressed were the following.

There was a concern that Mr. Pfeifer's career at Technicolor, where he worked from May, 1985, through August 3, 1985, somehow played a role in the evolution of a kidney disorder. For example, one applicant internist, Dr. D. Garabrant, said in his available medical/legal report of February 1, 1986, that Mr. Pfeifer did have a background of hematuria, but Dr. Garabrant thought that problem was "most likely due to recurrent kidney stones," and it was not due to any industrial factor. According to another applicant internist, Dr. B. Dolan, he wanted to know whether or not Mr. Pfeifer ever had a hematuria disorder prior to the patient's career at Technicolor, before determining whether Mr. Pfeifer had a residual kidney-associated disability due to industrial factors.

In personally speaking to Mr. Pfeifer at this time, I learned from him that he had been suffering with blood in his urine (hematuria) ever since he was 18 years of age. He stated that it had recurred intermittently throughout his life. He had consulted numerous physicians about it and had been told of there being but one source of this problem, that of kidney stones. Hence, one can conclude that the worries which Dr. Garabrant and Dr. Dolan had about Mr. Pfeifer's tenure at Technicolor and a potential residual occupational disability, were not warranted. Had they obtained from Mr. Pfeifer all of the latter information, they would have realized this.

Dr. Garabrant also said he really couldn't detect any neurologic abnormalities when he examined Mr. Pfeifer. Neither did Dr. Dolan. In fact, Dr. Dolan said in his report that Mr. Pfeifer's memory was currently "better than normal," and Mr. Pfeifer had "no complaints referable to his central nervous system." Dr. Dolan also learned from Mr. Pfeifer how he "did not feel stressed" by his career as a film lab technician.

Given the aforementioned information, I found it remarkable and unwarranted that Mr. Pfeifer would be declared by Dr. C. Furst and Mr. D. Forney in their available report of June 13, 1989, to allegedly have evidence of central nervous dysfunction and an organic brain syndrome because of his employment at Technicolor from May, 1985 to August 3, 1985. Part of their conclusions were based upon allegations that Mr.

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Pfeifer's subjective status was far different than how it was reported to either Dr. Garabrant or Dr. Dolan. Similarly, in applicant reports from Dr. A. Bloch, a psychiatrist, he, too, implied that Mr. Pfeifer allegedly had this overwhelming and consuming deterioration in his neurologic and brain conditions due to occupational factors.

There is no question that definite contradictions therefore exist among all of these applicant examiners. In personally evaluating Mr. Pfeifer, he currently told me he hadn't been suffering with any symptoms consistent with a neurologic abnormality. In particular, he denied to me having any history of mental lapses or cognitive deficits. He explained that if there had been any neurologic problems it would have been impossible for him to have continued to work in a full-time and unrestricted manner handling mentally detailed work, such as a salesman of two-way mobile radio systems.

I also found it rather interesting to note that though Mr. Pfeifer readily admitted to having an extensive personal background of neurologic insults, which include 17 separate concussions with losses of consciousness, the abuse of mind-altering drugs including cocaine, amphetamines, marijuana, and PCP, plus a past history of abusing alcohol up to a fifth per week, Dr. Bloch, Mr. Forney, and Dr. Furst failed to take any of that information into account. In all due respect to their opinions, I believe that for these and the other reasons which I have outlined, their conclusions cannot be considered accurate.

In summary, as I noted upon seeing Mr. Pfeifer back on June 5, 1985, and as is apparent based upon my recurrent re-evaluation, Mr. Pfeifer's former brief tenure at the Technicolor Company cannot be shown to have incurred, aggravated, or accelerated any permanent disability. Neither did it serve as a future basis for follow-up medical attention. Mr. Pfeifer remains permanent and stationary.

Sincerely yours,


Bruce S. Gillis, M.D., M.P.H.

BSG/dhn